

TESTIMONY OF
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ON
THE MAGNUSON-STEVENSON
FISHERY CONSERVATION AND MANAGEMENT ACT
BEFORE THE
SUBCOMMITTEE ON OCEANS AND FISHERIES
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

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Madame Chairman and members of the Subcommittee, thank you for inviting me to testify on implementation and reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I am Thomas Hill, a member of the New England Fishery Management Council. I was appointed to this position, based on my past experience, to provide the council a perspective regarding the recreational fishing sector of New England. I have already served one three-year term on the Council and was recently reappointed to a second. I would like to make it clear that my testimony represents my personal views and that I do not speak on behalf of the New England Fishery Management Council. In fact, on many issues, I represent the minority view on the Council.

It is difficult to imagine anywhere in the country where fishery management issues are as visceral and contentious as in New England. I am a native of Gloucester Massachusetts, where fishing has been a way of life for nearly 400 years. My community's economy and culture have been built around its ability to harvest fish from the Gulf of Maine and Georges Bank. For many years, it appeared to many that the ocean held an endless supply of fish. However, over the last twenty years, due to our collective failure in managing the resource, we have observed a steady decline in most of our stocks.

As an illustration of our management policies, the current plan in the Gulf of Maine restricts a fisherman to 30 lbs of cod per trip in certain areas. This might amount to a catch of one good fish per trip, and potentially results in the discard of thousands of pounds of dead fish. Clearly, in too many cases, the council and the fishing industry leadership have been more interested in limiting short term social or economic impacts than in ensuring the healthy rebuilding of fish stocks. The council has been more concerned with the reaction their decisions might receive, than in ensuring the effectiveness of the fishery management plans themselves. As a result, we have experienced greater dislocation than might have occurred if other choices had been made.

I would like to address several issues today that I believe should be considered during

reauthorization of the Magnuson-Stevens Act. While my perspective is based on my experience on the New England Fishery Management Council, I feel many of the regional councils face similar challenges. In my view, the following issues should be given priority during consideration of this legislation:

- 1) Establish a full-scale observer program
- 2) Develop a cooperative industry-agency science program
- 3) Allow an average Maximum Sustainable Yield for aggregate species
- 4) Require a performance standard for mortality targets, such as setting a hard Total Allowable Catch.
- 5) Provide for the collection of economic data

1) Establish a full-scale observer program

National Standard 2 in the Magnuson-Stevens Act requires the Councils use the best science available. We need information in a timely manner to fulfill our responsibilities under the Act. A first-class observer program that gathers real-time data is desperately needed. This should be both required and funded.

The Act was changed during the last reauthorization to require management plans for all the species under the Council jurisdiction. For many of these species we have incomplete and sometimes inadequate science. We need to ensure that the Council has the best available data to make the decisions that are incumbent upon it. This should include current assessment information, which should be no more than 6 months old. To use data that is 12 to 15 months old (as we now do) to make management decisions, undermines the trust and confidence we must have with the community to make our decisions. For example, in the recent Gulf of Maine codfish situation, if we had had observers on board the fishing vessels, we would have known immediately upon opening the fishery that we were experiencing high by-catch beyond the limits that were set, and the Council could have taken immediate action to avoid the ugly aspects that occurred in this debate.

2) Develop a cooperative industry-agency science program

Involve the fishing industry in the collection of data where possible. Ensure that the development of science needs and the utilization of platforms include the fishing industry wherever possible. Done properly, the fishermen can have input into the science and subsequent rules that will regulate them—it will build confidence. The fishermen have hands-on, practical knowledge that a non-fisherman will never have. Farming practices would never be regulated without the input of farmers. Fishery practices should be provided the same level of respect.

3) Allow an average Maximum Sustainable Yield for aggregate species

Allow the Councils to manage for the average Maximum Sustainable Yield (MSY) for those species that are caught in aggregate. Given some thoughtful discussion about the way the language of the Act is crafted, Congress could acknowledge the interrelationships of various fish stocks and set thresholds for the minimum but not necessarily the optimum yield. There are two ways to view this issue:

First, Congress' intent is that all stocks will be re-built without regard for the social and economic costs. As an example, if you are using a control on "days at sea" as your primary mortality tool, you will be setting your days at sea schedule to the lowest common denominator of the stock complex to insure rebuilding, since each stock in a stock complex must be maintained at optimum yield. You will therefore forgo the social and economic benefits that would be derived from capturing the other stocks that may be in abundant and in excellent biological condition while you try to re-build a single stock that is depressed.

As an alternative, the Councils could be allowed to conduct aggregate assessment/management plans for those stocks that are interrelated in terms of habitat and likely removal by commercial and recreational gear. So on average, the stocks that are involved are above the MSY, even though one stock may be below the MSY. This would avoid triggering significant restrictions by the Councils and would maximize the total yield and therefore the total value of the entire fishery. Because the multi-species fish stocks are caught in aggregate, we end up managing for the fish stock in the worst condition no matter what the economic or social cost with respect to the other stocks. This may be a lost opportunity. There needs to be a way to manage for the highest aggregate rebuilding, coupled with the maximum economic and social benefit.

Congress could acknowledge this type of stock interrelationships and set thresholds for the minimum but not necessarily the optimum yield. This issue would require some hard thought to provide a way of doing this, but is significant enough to be raised as a concern without offering a specific solution.

4) Require a performance standard for mortality targets, such as setting a hard Total Allowable Catch.

The Magnuson-Stevens Act should require that the Councils set a hard Total Allowable Catch (TAC) limit for each species under their jurisdiction. Requiring the setting of a hard TAC on an annual basis will hold the Councils and industry to a standard of performance regarding the setting and meeting of mortality targets. This needed discipline will help ensure a clarity of thought and testimony before the Council.

For example, the mortality tools currently used (i.e. trip limits, Days-At-Sea, area closures) have allocation implications built into them. A given fisherman will support one tool, but not another depending on his/her allocation interests, as much as whether it will help insure a healthy fishery. In other words, the mortality tools have become a surrogate for stock allocations among the various sectors of the industry (small boat, big boat, inshore, offshore, etc.) versus whether they will insure meeting the mortality targets.

This change would require that the Councils draft and submit Fishery Management Plans that meet the TAC goals within the year in question, to ensure that the mortality targets are not exceeded in each fishing year. This would avoid the exponential increase in the degree of restrictions caused when the mortality targets are exceed by using soft targets, as is currently common in many fisheries management plans. This then requires more restrictions on the industry in future management actions for the following year.

5) Provide for the collection of economic data

I find it extremely frustrating that the council does not have data that would enable us to incorporate socio-economic information into fishery management decisions. The Magnuson Stevens Act specifies the collection of biological, economic, and socio-cultural data to meet objectives of the Act and for the fishery management councils to consider this information in their deliberations. However, Section 303(b)(7) specifically excludes the collection of economic data, and Section 402(a) precludes Councils from collecting "proprietary or confidential commercial or financial information." NMFS should not be precluded from collecting such proprietary information so long as it is treated as confidential information under Section 402. Without this economic data, multi disciplinary analyses of fishery management regulations are not possible preventing NMFS and the Councils from satisfying the requirements of the Magnuson Stevens Act and the Regulatory Flexibility Act (RFA).

Assuming that the council does have accurate socio-economic information available, the larger question still remains: "How does the council make changes in proposed management measures if there are negative socio-economic impacts forecast for the needed reductions in fishing mortality?" This unresolved issue is at the heart of many of the disagreements about policy development in New England today. The consequence of taking expedient short term management steps in lieu of a long term approach has led to a series of measures which have not resolved the biological concerns and in fact have led to severe economic and social dislocation.

Madame Chairman, I would like to thank you for this opportunity to comment on the Magnuson-Stevens Act reauthorization. I'm also happy to answer questions or provide further information about the positions taken by the Council chairmen.